IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

REVIEW PETITION No. 14 of 2007.
IN
WRIT PETITION No.6660 of 2006.

Zakiabai Mohammedali Merchant ..Petitioner.

Vs.

1.Bai Zaitunbai Wd/o Babu Allarakha (Since deceased)

2. Abdul Salem S/o Babu allarkha

..Respondents.

Vijayalaxmi Nikam,Counsel for the Petitioner (Applicant).

Mr A. R. Shaikh for the Respondent.

CORAM: V.C.DAGA,J.
DATED: 20.02.2007.

P.C.:-

1] Heard the learned Counsel for the Petitioner. Perused review petition alongwith annexure thereto.

2] Having heard the learned counsel for the petitioner, no case is made out to entertain this review petition. However, I deem it necessary to place certain facts on record to keep the record straight.

3] The learned counsel for the petitioner

urged that the Writ Petition Stamp No. 23266 of 2006 (now W.P. No. 6660/2006) was not on board on 28th September, 2006,therefore, this petition could not have been disposed of by the order under review. The submission made is devoid of any substance.

4] This matter was heard by me on 28th September, 2006, It is true that initially this matter was not on board on 28th September, 2006. The production of papers was sought in the post lunch session by the very same Advocate who has argued this matter today, to seek urgent orders. As per practice prevailing in this Court at Mumbai, the production of papers in post lunch session was allowed. That is how the matter was taken on board for urgent hearing and order on 28th September, 2006.

5] The Registry has also placed on record their report to show how the matter came before the Court for hearing on 28th September, 2006. The report reads as under:-

"This relates to the Writ Petition Stamp No. 23266 of 2006 filed by Mrs. Vijaylaxmi Nikam, Advocate for Petitioner, in this Hon'ble High Court."

"My Lord, I respectfully submit Your Lordship that the aforesaid Writ Petition was filed by Mrs. Vijaylaxmi Nikam on 28.9.2006. On the same day, the Writ Petition No. 6373 of 2006 filed by Smt. Zakiabai M Merchant in-person, was on the board of Your Lordship. The Petitioner in aforesaid Writ Petition Stamp No. 23266 of 2006 may be heard alongwith Writ Petition No. 6373 of 2006. Accordingly, Your Lordship has orally directed to place the aforesaid Writ Petition Stamp No.23266 of 2006 alongwith Writ Petition No.6373/2006 for hearing at 3:00 p.m. on 28.9.2006. at that time, Mrs. Vijaylaxmi Nikam, Advocate for the Petitioner, has argued the case on behalf of the petitioner at length. After hearing the aforesaid Writ

Petition Stamp No. 23266 of 2006, Your Lordship has rejected the said Writ Petition and granted four month's time not to execute the impugned order. Your Lordship has not passed any order on Writ Petition No.6373 of 2006."

6] On the face of the aforesaid repot, and what is stated hereinabove by me; the submission made by the learned counsel for petitioner is absolutely false to her own knowledge. Merely because "Not on Board,taken up for hearing" is not mentioned in the opening part of the order,does not mean that the matter was not on Board. It was taken on board at the request of the Advocate for petitioner since urgency to hear the matter in question was made out. Hence the contention raised in this behalf to seek review of the subject order on this count has no substance.

7] During the course of hearing some typographical errors were brought to my notice; which, obviously, need correction, though they are not of substantial nature

affecting the merits of the order. Hence this order.

A. In the cause title of the subject order, the name of the first respondent alone, who is dead, is mentioned; whereas as per the Review Petitioner more than one respondents were parties to the petition, hence their names need to be shown in the cause title of the order. In this view of the matter, the words"(since deceased)" followed by words "and others" will have to be added after the name of the first respondent and word "Respondent" will have to be substituted with that of "respondents"

B. In para 6 of the order, it is mentioned at the end of the para that "during the pendency of the appeal decree for eviction appears to have been executed." According to the learned counsel, three days before filing of the appeal, decree for eviction was executed. As such, the words readings as "however, during the pendency of appeal" needs to be substituted with that of "However, three days before filing of the appeal".

C. In paragraph 7 of the order, reference to the suit is made as the "Small Causes Suit", whereas it ought to have been "Short Cause Suit". The word "Small Causes" needs to be substituted with that of "Short Cause"

D. In paragraph 10 of the order, again there is reference to the "Small Causes Court" which needs to be substituted with that of "City Civil Court". Accordingly words "Small Causes Court" be substituted with that of "City Civil Court".

E. In last line of para 15, the date appearing as "6.9.2006" needs to be substituted with that of "2.8.2006". Similarly, in para 18, the year "2006" needs to be substituted with that of "2003".

8. The order dated 28th September,2006 stands corrected as indicated in para 7 A to E (supra), rest of the order shall remain unchanged. Order accordingly.

9. The learned counsel appearing for the

Review Petitioner also tried to rely on some of the Judgments of this Court and that of the Supreme Court. I have perused those judgments. They lay down well settled propositions of law which are not in dispute. However, none of them are applicable to the facts of this case.

10. The parameters of the review jurisdiction are well recognized. As already stated above, in earlier part of this order, no case is made out to entertain this review petition. In the result, same is dismissed with no order as to costs.

11. At this stage, the learned counsel appearing for the petitioner sought extension of the period to prevent execution of decree. The execution was stayed for four months. The period has already expired. No case is made out for grant of extension as sought. Prayer made in this behalf is thus rejected.

[V.C. DAGA,J.]